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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,834	01/17/2002	David J. Richmond	REVOl-58825	1866
7590	05/20/2004		EXAMINER	
ELLSWORTH R. ROSTON, ESQ. FULWIDER PATTON LEE & UTECHT, LLP HOWARD HUGHES CNETER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045			BALSIS, SHAY L	
			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 05/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/052,834	RICHMOND ET AL.
	Examiner	Art Unit
	Shay L Balsis	1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 April 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 33-46 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-32 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-46 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 January 2002 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/26/03
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Election/Restrictions

Claims 33-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement on April 19, 2004. Claims 1-32 could be used for a separate utility such as cleaning as stated in the previous office action. Additionally, the method as stated in claims 33-46 may operate without the use of a motor or without bristles.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Shute (USPN 524654).

Shute teaches a rotatable hair brush comprising a pair of oppositely disposed supports (figure 2). There is a plurality of dividers (c) supported by the supports, arranged so that there is a central opening. A core (e) is disposed in the central opening. The core comprises a plurality of openings, each opening having bristles (b) extending therefrom. A motor is operatively coupled to the core to rotate the core.

Claims 1-3, 5, 7-19, 21-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Marino (USPN 6098635).

Marino teaches a rotatable hair brush comprising a pair of oppositely disposed supports (c9, l38-43). There is a plurality of dividers (50) supported by the supports, arranged so that

there is a central opening. A core (33) is disposed in the central opening. The core comprises a plurality of openings, each opening having bristles (40) extending therefrom. The core has a detent at one end and the support has a detent to form a mating relationship with the core detent (figure 3). The core and the dividers are substantially cylindrical and have axes that are parallel. A motor (24) is operatively coupled to the core to rotate the core. There is a handle (12) which is smooth crated to the end of the handle adjacent the core. There is additionally a battery (14) disposed in the handle. On the handle there is a switch (20) with a first position to obtain rotation of the core in a first direction and a second position to obtain a rotation in a second direction different from the first direction. There is an end cap (36), which overlaps the dividers to provide a smooth surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marino (USPN 6098635) in view of Lesetar (USPN 3890984).

Marino teaches all the essential elements of the claimed invention however fails to teach a separate switch for controlling motor speed. Marino teaches one switch which changes the direction of rotation of the brush and also can control motor speed (c3, l31-37). Lesetar teaches a rotary brush comprising a switch for reversing the direction of the brush and also a switch for adjusting the speed of rotation of the brush. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add another switch to Marino so that the motor

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speed has its own control switch. Having a separate speed control switch allows for easier manipulation of the brush and less chance of error for example by attempting to decrease the speed and accidentally changing the direction of rotation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Slb
5/6/04


Gary K. Graham
Primary Examiner
1744